

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GREGORY WAYNE CAGE, JR,

Plaintiff,

v.

TODD BOSHAW, et al,

Defendants.

Case No. C20-1063-RSL-MLP

ORDER

This is a civil rights action proceeding under 42 U.S.C. § 1983. This matter comes before the Court on Plaintiff's "Motion for Discovery Evidentiary Hearing." (Dkt. # 9.) Plaintiff requests in his motion that the King County Jail be compelled to provide him with audio and video footage, Police CAD reports, abstract reports, medical reports, and witness statement relating to his excessive force claim. (*Id.*) Plaintiff also requests production of all evidence for "King County Claim Case No. # 63741," and that he have the opportunity to inspect and copy that evidence. (*Id.*) It further appears Plaintiff requests the Court provide all records showing dates, places, and times that the requested evidence was checked into or out of the evidence department. (*Id.*) Defendants did not submit a response.

1 It is not clear if Plaintiff's motion is an initial request for discovery or a motion to compel  
2 discovery. Construing Plaintiff's motion either way, the motion is deficient. Pursuant to Rule  
3 5(d)(1) of the Federal Rules of Civil Procedure, discovery requests and responses thereto, are not  
4 to be filed with the Court until they are to be used in the proceeding or until the Court orders that  
5 they be filed. If Plaintiff's motion is a discovery request, it does not appear he is seeking to use it  
6 in these proceedings at this juncture and the Court has not ordered that it be filed. Accordingly,  
7 Plaintiff's motion fails, and any discovery requests should be directed to Defendants.

8 Further, Rule 37(a)(1) of the Federal Rules of Civil Procedure requires that a party  
9 seeking to compel discovery include in the motion a certification that the moving party "has in  
10 good faith conferred or attempted to confer" with the party failing to make disclosures. LCR  
11 37(a)(1) provides that "a good faith effort to confer with a party or person not making a  
12 disclosure or discovery requires a face-to-face meeting or a telephone conference." If Plaintiff's  
13 motion is a motion to compel discovery, his motion fails because he did not provide the requisite  
14 certification with his motion nor does it appear from the record that he ever requested a meeting  
15 with Defendants prior to filing his motion. The Court notes Plaintiff filed his motion on August  
16 6, 2020, before Defendants entered a notice of appearance on August 21, 2020. (Dkt. # 17.)

17 Based on the foregoing, the Court hereby ORDERS that Plaintiff's motion for discovery  
18 evidentiary hearing (dkt. # 9) is DENIED. The Clerk is directed to send copies of this order to  
19 the parties and to the Honorable Robert S. Lasnik.

20 Dated this 3rd day of September, 2020.

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23 MICHELLE L. PETERSON  
United States Magistrate Judge